

REMARKS

In the Office Action¹, the Examiner took the following actions: (1) rejected claims 9 and 23 under 35 U.S.C. § 112, second paragraph, as being indefinite; (2) rejected claim 1-4, 9-11, and 13-21 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent Application Publication No. 2004/0082867 to Esch et al. ("Esch") in view of U.S. Patent No. 6,272,903 to Crozafon et al. ("Crozafon"); (3) rejected claims 5-8 under 35 U.S.C. § 103(a) as being unpatentable over Esch in view of Crozafon, and further in view of U.S. Patent No. 5,756,900 to Arie et al. ("Arie"); and (4) rejected claims 12, 22, 23, and 24-28 under 35 U.S.C. § 103(a) as being unpatentable over Esch in view of Crozafon, and further in view of U.S. Patent No. 5,807,258 to Cimochoowski et al. ("Cimochoowski").

By this Amendment, Applicant has amended claims 1, 3, 12, and 28, canceled claims 9 and 23, and added new claims 29-35. Upon entry of this Amendment, claims 1-35 will be pending and under current examination. For the following reasons, Applicant respectfully traverses the objection and rejections.

I. 35 U.S.C. § 112 Rejection of Claims 9 and 23

Applicant respectfully traverses the rejection of claims 9 and 23 under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. However,

¹ The Final Office Action may contain statements characterizing the related art, case law, and claims. Regardless of whether any such statements are specifically identified herein, Applicant declines to automatically subscribe to any statements in the Final Office Action.

solely as an effort to advance prosecution, Applicant has canceled claims 9 and 23. Accordingly, the rejection of claims 9 and 23 under 35 U.S.C. § 112, second paragraph, has been overcome and should be withdrawn.

II. 35 U.S.C. § 103(a) Rejection of claims 1-4, 9-11, and 13-21

Applicant respectfully traverses the rejection of claims 1-4, 9-11, and 13-21 under 35 U.S.C. § 103(a) as being unpatentable over Esch and Crozafon. A *prima facie* case of obviousness has not been established.

The Office Action has not properly resolved the *Graham* factual inquiries, the proper resolution of which is the requirement for establishing a framework for an objective obviousness analysis. See M.P.E.P. § 2141(II), citing to *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), as reiterated by the U.S. Supreme Court in *KSR International Co. v. Teleflex Inc.*, 550 U.S. 398, 82 USPQ2d 1385 (2007).

In particular, the Office Action has not properly determined the scope and content of the prior art or ascertained the differences between the prior art and claim 1. For example, Esch fails to teach or suggest “a device for transporting biological fluid in at least a part of an extracorporeal circuit, said at least part of the extracorporeal circuit being disposable,” which includes, among other things, “at least one pressure sensor in fluid communication with the biological fluid configured for sensing a difference between a pressure of the biological fluid and a reference pressure, wherein the at least one pressure sensor comprising an electric circuit that is configured to be energized by a first alternating electromagnetic field generated by an external transmitter inductively

coupled to the pressure sensor and configured to communicate information indicative of a pressure from the pressure sensor via a second alternating electromagnetic field to an external receiver inductively coupled to the pressure sensor, wherein the second alternating electromagnetic field causes a current-dip in the external receiver,” as recited in independent claim 1.

In the Office Action, the Examiner alleges that the “pressure sensor 2” as disclosed by Esch corresponds to the claimed “pressure sensor.” (Office Action at p. 3.) Applicant respectfully disagrees. For example, although the “pressure sensor 2” disclosed by Esch appears to include an electric circuit consisting of a “capacitive pressure sensor 20” and the “inductive coil 30,” Esch does not teach or suggest that the circuit is “energized by a first alternating electromagnetic field generated by an external transmitter inductively coupled to the pressure sensor,” as recited in claim 1. Indeed, the Examiner concedes that “[t]he inductive coil energizes the circuit.” (Office Action at p. 3.) Furthermore, Esch fails to teach or suggest that the pressure sensor is configured to “communicate information indicative of a pressure from the pressure sensor via a second alternating electromagnetic field to an external receiver inductively coupled to the pressure sensor, wherein the second alternating electromagnetic field causes a current-dip in the external receiver.” Indeed, although Esch teaches an external coil and the Examiner interprets it as to measure the capacitance and transmit the data to a controller 100 that is capable of performing data analysis, (Office Action at p. 3,) Esch has no teaching about the “second alternating electromagnetic field” or that it “causes a

current-dip in the external receiver.” For at least these reasons, Esch does not teach or suggest at least the above-cited features as recited by claim 1.

Crozafon does not cure the deficiencies of Esch. For example, in the Office Action, the Examiner concedes that Esch does not teach or suggest that “the pressure sensor is part of an extracorporeal circuit,” but alleges that Crozafon teaches these features. (Office Action at p. 3.) However, Crozafon, directed to “a device for measuring the pressure of a liquid flowing in a tube into or out from the human body,” does not teach or suggest that “the device is in at least a part of an extracorporeal circuit, said at least part of the extracorporeal circuit being disposable,” as recited by claim 1. Therefore, Esch and Crozafon, taken alone or in combination, fail to teach or suggest each and every element of claim 1.

In view of the above, the Office Action has neither properly determined the scope and content of the prior art nor properly ascertained the differences between the prior art and claim 1. Consequently, no reason has been clearly articulated as to why the claim would have been obvious to one of ordinary skill in view of the prior art. Accordingly, the Examiner has not met the burden of establishing a *prima facie* case of obviousness of claim 1. Therefore, the rejection of claim 1 under 35 U.S.C. § 103(a) based on Esch and Crozafon is improper and must be withdrawn. Claims 2-4, 9-11, and 13-21 depend from independent claim 1 and are allowable at least by virtue of their dependence from allowable independent claim 1. Accordingly, the rejection of claims 2-4, 9-11, and 13-21 under 35 U.S.C. § 103(a) based on Esch and Crozafon is also improper and must be withdrawn.

III. 35 U.S.C. § 103(a) Rejection of claims 5-8

Applicant respectfully traverses the rejection of claims 5-8 under 35 U.S.C. § 103(a) as being unpatentable over Esch, Crozafon, and Arie. A *prima facie* case of obviousness has not been established.

As explained, Esch and Crozafon, taken alone or in combination, fails to teach or suggest the above-discussed features as recited in independent claim 1. Arie, cited merely for the teaching of “a rigid box with a flexible membrane,” does not cure the deficiencies of Esch. Therefore, Esch, Crozafon, and Arie, taken alone or in combination, fail to teach or suggest each and every element of claim 1. Accordingly, the Examiner has not met the burden of establishing a *prima facie* case of obviousness of claim 1 based on Esch, Crozafon, and Arie. Claims 5-8 depend from independent claim 1 and are allowable at least by virtue of their dependence from allowable independent claim 1. Accordingly, the rejection of claims 5-8 under 35 U.S.C. § 103(a) based on Esch, Crozafon, and Arie is also improper and must be withdrawn.

IV. 35 U.S.C. § 103(a) Rejection of claims 12 and 22-28

Applicant respectfully traverses the rejection of claims 12 and 22-28 under 35 U.S.C. § 103(a) as being unpatentable over Esch, Crozafon, and Cimochowski. A *prima facie* case of obviousness has not been established.

As explained, Esch and Crozafon, taken alone or in combination, fails to teach or suggest the above-discussed features as recited in independent claim 1. Cimochowski, cited for the teaching of “an RF coupling coil,” does not cure the deficiencies of Esch.

Therefore, Esch, Crozafon, and Cimochowski, taken alone or in combination, fail to teach or suggest each and every element of claim 1. Claims 12 and 22-28 depend from independent claim 1. Therefore, the Examiner has not met the burden of establishing a *prima facie* case of obviousness of claims 1, 22, and 28 based on Esch, Crozafon, and Cimochowski at least by virtue of their dependence from independent claim 1.

Accordingly, the rejection of claims 12 and 22-28 under 35 U.S.C. § 103(a) based on Esch, Crozafon, and Cimochowski is improper and must be withdrawn.

V. New Claims 29-35

New independent claim 29, although of different scope, includes elements similar to those of claim 1 discussed above. For at least the reasons explained above, Esch, Crozafon, and Cimochowski, taken alone or in combination, fail to teach or suggest each and every element of claim 29. In addition, claim 29 recites additional limitations, such as, “a container exposed to the atmosphere outside the extracorporeal circuit, such that the reference pressure within the container is equal to an atmospheric pressure,” that are not taught or suggested by any of the cited references, or the combination thereof. New claims 30-35 depend from independent claim 29. The dependent claims are allowable at least by virtue of their dependence on allowable independent claim 29. Therefore, Applicant respectfully requests consideration and allowance of new claims 29-35.

VI. Conclusion

In view of the foregoing, Applicant respectfully requests reconsideration and reexamination of this application and the timely allowance of the pending claims.

Please grant any extensions of time required to enter this response and charge any additional required fees to our Deposit Account 06-0916.

Respectfully submitted,

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